

well below ambient temperature i.e., -40°C for about 2 hours and then at -30°C (still well below ambient temperatures) (col. 7, lines 31-37). Then the temperature is elevated to 80°C. Thus, in Ogasa, the lactulose syrup is not introduced to elevated temperature and reduced pressure as claimed herein, but, rather, the lactulose syrup is introduced into a freeze dryer at reduced temperature and pressure.

Applicants respectfully point out that it is clear from the present disclosure that the Applicant's drying process does not involve cooling below ambient temperature. Consequently, the water removal occurs by evaporation. In contrast, the initial water removal in Ogasa occurs by sublimation.

Further, it is also pointed out that while the Ogasa method requires an extended period of time (about 22 hours), the Applicants' method is accomplished in much shorter time (less than an hour - see Examples 1 and 2) and without any need for specialized cooling.

Based on these arguments, it is believed that claims 1, 3 and 8 of the present application cannot be deemed to be anticipated by Ogasa and therefore, the Examiner is requested to withdraw the rejection.

Claim 10

No specific reason has been presented for rejection of claim 10. However from the Office Action summary and a listing of the Allowable claims, it appears that the Examiner deems claim 10 as rejected. Applicants respectfully request the Examiner to reconsider since Claim 10 also recites subjecting of the lactulose solution to conditions of elevated temperature and reduced pressure while Ogasa describes subjecting a lactulose syrup to reduced temperature (-40°C, -30°C) and reduced pressure. Although Ogasa uses a higher temperature after that, the material subjected to elevated temperature is not the lactulose solution but rather, the material after freeze drying. Also, as discussed above, the Ogasa method requires extended period of time and needs specialized cooling and initially involves sublimation. In contrast, in the present invention, because the lactulose solution is directly subjected to elevated temperature and reduced pressure, the process is accomplished in a shorter period of time and involves evaporation instead of sublimation.



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Response to Office Action

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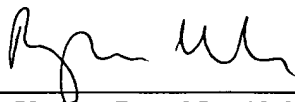
Allowable subject Matter

The Examiner indicates claims 2, 4-5, 6-7, 9 and 11 would be allowable if written to include the limitations of any intervening claims and to overcome the 35 USC 112 second paragraph rejection. In a telephonic interview with Examiner Wilson on January 7, 2004, to request clarification, the Examiner indicated that there was no 35 USC 112 rejection. Accordingly, Applicants have not addressed the issue. With respect to amending the claims to include any limitations of the intervening claims, based on the arguments presented herein, Applicants believe claim 1 is now allowable and therefore, claims 2, 4-7 and 9 which depend on claim 1, should also be allowable. Similarly, because Applicants believe claim 10 is allowable, claim 11, which depends upon claim 10, should be allowable.

Based on the above arguments, it is believed that claims 1-11 are now in a condition for allowance and therefore Applicants request the Examiner to allow the claims. If a discussion with the Applicant's attorney would facilitate the allowance of this case, the Examiner is respectfully requested to call the undersigned.

This response is being filed within three months of the date of the Office Action and therefore it is believed that no fee is due. If, however, a fee is due, the USPTO is authorized to charge to Deposit Account no. 08-2442.

Respectfully submitted,

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